

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

ALPESH KUMAR V. SHAH,

Plaintiff,

v.

Case No. 04-C-613

WISCONSIN DEPARTMENT OF
TRANSPORTATION, ABDULAZIZ
ALEIOW, JOHN SHAW, DEWAYNE
JOHNSON, CLAUDIA PETERSON,
and GAIL MILLER,

Defendants.

ALPESH KUMAR V. SHAH,

Plaintiff,

v.

Case No. 06-C-1266

STATE OF WISCONSIN DEPARTMENT
OF TRANSPORTATION, ABDULAZIZ
ALEIOW, JOHN SHAW, and DEWAYNE
JOHNSON

Defendants.

**ORDER GRANTING PLAINTIFF'S MOTION TO CONSOLIDATE, DENYING
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT WITHOUT PREJUDICE,
AND DENYING PLAINTIFF'S MOTION FOR AN EXTENSION OF TIME AS MOOT**

On March 9, 2007, the court conducted a telephonic hearing on the plaintiff's motion to consolidate cases 04-C-613 and 06-C-1266. Attorney Glenn Reynolds appeared on behalf of the plaintiff and Assistant Attorney General Nadim Sahar appeared on behalf of the defendants. For the

reasons more particularly stated on the record, the plaintiff's motion to consolidate cases 04-C-613 and 06-C-1266 for all future proceedings will be granted. Pursuant to Civil Local Rule 42.1 (E.D. Wis.), "the judge to whom the lowest numbered case is assigned must handle all future proceedings covered by the consolidation order." Given that the lowest numbered case is assigned to a federal magistrate judge, and both parties have already consented to magistrate judge jurisdiction in that case, it is necessary for both parties to also consent to federal magistrate judge jurisdiction in case number 06-C-1266 pursuant to 28 U.S.C. § 636(c) and General Local Rule 73.1 (E.D. Wis.). Although both parties orally consented to magistrate judge jurisdiction on the record during the telephonic hearing, the parties shall electronically file magistrate judge consent forms for case number 06-C-1266 on or before March 29, 2007.¹

Furthermore, Civil Local Rule 42.1(b) provides that, "[w]hen two or more cases are consolidated, all documents relevant to the purposes for which consolidation was granted will thereafter be docketed only on the docket sheet for the lowest numbered of the consolidated cases." Accordingly, the parties are directed to file all documents concerning the now-consolidated case 04-C-613 and 06-C-1266 in case number 04-C-613.

Additionally, for the reasons stated more particularly on the record, the defendants' motion for summary judgment will be denied without prejudice; the plaintiff's request for an extension of time to file his response to the defendants' motion for summary judgment will be denied as moot; the plaintiff's second amended complaint² shall be filed on today's date and shall be the operative

¹ The magistrate judge consent forms can be found on the Eastern District of Wisconsin's website at <http://www.wied.uscourts.gov/forms.htm>.

² The plaintiff's first amended complaint was filed on May 3, 2005.

complaint in this now-consolidated action; all discovery is to be completed in accordance with Civil L.R. 26.2 by Friday, July 13, 2007; and, a scheduling conference will be conducted on Wednesday, July 18, 2007, at 10:00 a.m. in Room 253 of the U.S. Courthouse, 517 E. Wisconsin Avenue, Milwaukee, WI 53202.

NOW THEREFORE IT IS HEREBY ORDERED that the plaintiff's motion to consolidate be and hereby is **GRANTED**;

IT IS FURTHER ORDERED that cases 04-C-613 and 06-C-1266 be and hereby are consolidated for all further proceedings;

IT IS FURTHER ORDERED that the parties file their magistrate judge consent forms for case number 06-C-1266 on or before March 29, 2007.

IT IS FURTHER ORDERED that the plaintiff shall file his second amended complaint on today's date and such complaint will be the operative complaint in this now-consolidated action;

IT IS FURTHER ORDERED that the defendants' motion for summary judgment be and hereby is **DENIED WITHOUT PREJUDICE**;

IT IS FURTHER ORDERED that the plaintiff's request for additional time to respond to the defendants' motion for summary judgment be and hereby is **DENIED AS MOOT**;

IT IS FURTHER ORDERED all discovery is to be completed in accordance with Civil L.R. 26.2 by Friday, July 13, 2007; and, a scheduling conference will be conducted on Wednesday, July 18, 2007, at 10:00 a.m. in Room 253 of the U.S. Courthouse, 517 E. Wisconsin Avenue, Milwaukee, WI 53202.

SO ORDERED this 9th day of March 2007, at Milwaukee, Wisconsin.

/s/ William E. Callahan, Jr.
WILLIAM E. CALLAHAN, JR.
United States Magistrate Judge